
**Agriculture & Natural Resources
Committee**

HB 2871

Brief Description: Regarding penalties for small scale prospecting and mining violations.

Sponsors: Representatives Kretz and McCune.

Brief Summary of Bill

- Provides that small scale prospecting and mining violations of the "Gold and Fish Pamphlet" are punishable as a natural resource infraction and are no longer subject to criminal penalty.

Hearing Date: 1/30/08

Staff: Colleen Kerr (786-7168).

Background:

Hydraulic Project Approvals

Before beginning a construction project, a person must obtain a hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. HPAs are issued by the Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life (RCW 77.55.021).

Small Scale Prospecting

Under the hydraulic code, the WDFW must develop rules for small scale prospecting and mining without requiring a hydraulic permit. The rules, published in the "Gold and Fish Pamphlet", describe allowable small scale prospecting and mining activities, as well as activities that would require a hydraulic permit. Small scale prospecting is defined as discovering and recovering minerals using pans, nonmotorized sluice boxes, concentrators, and mini-rocker boxes (RCW 77.55.270).

Enforcement

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Small scale prospecting in violation of the standards established in the "Gold and Fish Pamphlet" may be subject to civil and criminal enforcement. The unlawful undertaking of a hydraulics activity is a gross misdemeanor (RCW 77.15.300). Civil penalties can be up to \$100 per day (RCW 77.55.140).

Natural Resources Infractions

The Legislature has decriminalized certain statutory violations of the natural resources code and provided for a civil process. Natural resource infraction notices are brought before the district court in the district in which the infraction occurred. A person who is found guilty of a natural resources infraction is assessed a monetary penalty not to exceed \$500 unless specifically authorized by statute; alternatively, the court may order community restitution. Failure to pay or to complete community restitution is a misdemeanor.

Summary of Bill:

Violations of the "Gold and Fish Pamphlet" involving of requirements for HPAs regarding small scale prospecting and mining is punishable as a natural resources infraction and is no longer subject to criminal penalty.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.